IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5054 of 2003

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

STATE OF GUJARAT THRO' MANAGER

Versus

VINUBHAI SHANKERBHAI GOHEL

Appearance:

MR ND GOHIL, AGP, for Petitioner

MR NIKHIL D JOSHI for Respondent

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 06/08/2004

ORAL JUDGEMENT

1.1 By way of this petition the petitioner-State of Gujarat challenged the judgement and award passed by the Labour Court, Anand, in Reference (LCA) No.808/92 dated 11.10.2002, whereby the Labour Court has reinstated the respondent workman with continuity of service, but backwages are granted only for two months because though

the workman had worked during the said period, he was not paid the payment.

2.1 The respondent workman had raised a dispute stating that the petitioner had illegally terminated the services of the respondent with effect from 23.8.1990. The said dispute was referred to the Labour Court, Anand which was numbered as Reference (LCA) No.808/92. The Labour Court, after hearing the parties, directed the petitioner to reinstate the respondent with backwages for two months. It is against the said award the present petition has been filed.

3.1 Mr. N.D. Gohil for the petitioner submitted that the Irrigation Department is not an "industry" in view of the decision reported in 2000 Vol. I, GLH, page 482. However, the said decision has been reversed by the decision of the Full Bench in the case of Gujarat F.P.G. & F.W. Union Vs. State of Gujarat, reported in 2004(2) GLH 302 wherein it is held that Irrigation Department is an "industry" as defined under the Industrial Disputes Act. Therefore there is no substance in the first contention raised by the learned counsel for the petitioner.

3.2 Mr. Gohil next contended that the respondent workman has not completed 240 days and he was daily wager and therefore the Labour Court has committed an error in granting reinstatement. It is required to be noted that the Labour Court in its order recorded a finding that without any departmental inquiry the respondent workman was removed and that was done with a view to appoint some other person. The Tribunal held that the procedure required under section 25F is not followed. Apart from that the Tribunal has granted reinstatement with continuity of service and the salary which was granted is admittedly for the work done. A perusal of the judgement of the Labour Court shows that the findings of the Labour Court are just and proper and no interference is called for.

3.3 Mr. Gohil has also contended that the respondent was a daily wager and the Government is not required to comply with section 25F. However, as stated above, no procedure was followed by the State Government and the Labour Court has not granted backwages. The petitioner has not pointed out anything to show that the judgement of the Labour Court is in any way illegal and improper.

4.1 In the premises aforesaid, there are no merits in the in the petition and the same is required to be

rejected. Accordingly the petition is rejected. Rule is discharged with no order as to costs. The petitioner shall comply with the award of the Labour Court within a period of two months from the date of receipt of writ of this order.

[K.S. JHAVERI, J.]

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